

MAY 26, 2004

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, May 26, 2004, at 6:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
RHONDA G. HENDERSON, Director of Planning
JENNIFER M. HOOVER, Director of Public Works
STEPHEN R. RIDDLEBARGER, Director of Human Resources
DIANA M. STULTZ, Zoning Administrator
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE AND INVOCATION.

Chairman Ahrend called the meeting to order at 6:00 p.m.

County Attorney Brown led the Pledge of Allegiance, and Supervisor Breeden gave the invocation.

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APPROVAL OF MINUTES.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Minutes of the Regular Meeting held on May 12, 2004.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

In response to a question from Supervisor Cuevas, Mr. Komara advised that the yellow lines would be repainted on Springbrook Road.

Supervisor Breeden noted that recently there was a serious accident on Island Ford Road, Routes 649 and 340. He suggested that the Fire & Rescue Director provide some statistics for the number of accidents at that location so that, if warranted, a flashing light might be installed.

In response to a question from Supervisor Floyd, Mr. Komara said he had received a citizen petition for improvements to Duck Pond Road.

Mr. Paxton advised that staff had been getting calls concerning tall grass along the secondary roads. Mr. Komara noted that the mowing schedule has the interstate roads scheduled for mowing first, then the primary roads, and lastly the secondary roads. However, if his office is advised of particular problems, the mowers will deviate from the schedule, if necessary. He pointed out that the abundance of rainfall has caused the vegetation to grow more rapidly this spring.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated May 21, 2004, including information on the planned radio system, economic development, request for support for increase in Medicaid funding for OB/GYN physicians, Upper Valley Regional Park Authority, and letter from Army Corps of Engineers regarding work permitted in streams, ponds and rivers in the County.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board agreed to send a letter to the

Governor and Chairs of the Senate Finance and House Appropriations Committee, supporting the allocation of a portion of any projected surplus fund to address the statewide Medicaid crisis situation, which primarily affects smaller hospital service areas, several of which have had to discontinue OB service. Mr. Paxton noted that, although Rockingham Memorial Hospital (RMH) is the first larger, more complex hospital to face this crisis, RMH Administrator advised that there were many more on the verge of facing the same issues.

Mr. Paxton advised that the School Board took action to approve an amended budget request to include the funding recently approved in the State budget and to decrease the amount of funds requested from the County.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized advertising a public hearing for June 9, 2004, to amend the budget as necessary, including funding for constitutional officers' budgets.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board set June 4, 2004, as the cut-off date for accepting proposals to purchase the "County Office Building" located at 2 South Main Street

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COUNTY ATTORNEY'S STAFF REPORT.

The Board received and reviewed Mr. Brown's staff report dated May 21, 2004, including information concerning a summary of requirements for poultry house conversions which is to be attached to the County's special use permit applications and concerning a legal matter.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

Mr. King did not have a written report.

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FINANCE DIRECTOR’S STAFF REPORT.

Mr. Allmendinger did not have a written report.

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HUMAN RESOURCES DIRECTOR’S STAFF REPORT.

The Board received and reviewed Mr. Riddlebarger’s staff report dated May 26, 2004, including information concerning a proposed job description for the new position of Stormwater Management Program Administrator and a revised position for Plan Reviewer in the Community Development Department.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND – AYE; BREEDEN – AYE; CUEVAS – AYE; FLOYD – AYE; KYGER – AYE; the Board approved the following job descriptions as recommended.

**ROCKINGHAM COUNTY VIRGINIA
JOB DESCRIPTION**

JOB TITLE: Plan Reviewer	JOB CODE: PT
GRADE: 16	DATE LAST UPDATED: 05/04
JOB TITLE SUPERVISOR: Building Official	

PRIMARY OBJECTIVE/PURPOSE:

Review all aspects of building construction plans submitted for County approval for compliance with the Virginia Uniform Statewide Building Code.

QUANTITATIVE MEASURES:

Plan Review
5 to 20 walk-ins daily
10 to 40 telephone calls daily

SUMMARY OF JOB:

This position may have some supervisory responsibilities in the absence of the Building Official.

Must have thorough knowledge of Uniform Statewide Building Code and be able to read and interpret various types of construction blueprints.

Problem solving concentrates on compliance issues. Disputes are referred to supervisor. Must determine priorities for scheduling and need for follow up.

State building code guides the decision making process.

Public relations are heavily involved with this position. While code enforcement is the primary objective, facilitating the education and cooperation of architects, contractors and homeowners is also important.

Plan review involves primarily office work with some travel involved to work sites within Rockingham County to serve as back-up inspector and to review current trends. The workweek is standard.

ESSENTIAL FUNCTIONS:

- Reviews building, electrical, mechanical and plumbing plans for residential commercial, industrial and multi-family structures;
- Serves as a deputy, exercising all of the powers of the building official, during the temporary absence or disability of the building official;
- Provides technical code information to the public and to departmental staff;
- Prepares a variety of correspondence and reports concerning code compliance matters;
- Attends various meetings and training sessions to stay abreast of professional developments;
- Provides plan review comments and participates in pre-construction meeting with architects, engineers and contractors.
- Performs related work.

MINIMUM REQUIREMENTS:

Knowledge, Skills and Abilities:

Thorough knowledge of the technical aspects of building, electrical, plumbing and mechanical code enforcement. Considerable knowledge of sound engineering and construction techniques and practices. Ability to deal effectively with building industry professionals, the general public, fellow employees, and government officials. Considerable skill in communicating effectively, orally and in writing.

Education and Experience:

Graduation from an accredited college or university with a bachelors degree in engineering, architecture or a related degree. Three to five years experience in the building or construction industry or equivalent. Possession of a valid driver's license from the Commonwealth of Virginia. Must obtain a certificate of competence in building plan review, from the Virginia Board of Housing and Community Development, within one year of appointment. Engineer in Training (EIT) or equivalent designation is required.

very good organizational skills and the ability to handle a number of activities simultaneously.

Within the limits of published regulations, individual is given freedom to act. On matters involving more complex or sensitive issues, individual is expected to work closely with supervisor and management to see that all parties are kept advised of activities.

Must be highly skilled in interpersonal communications, both verbal and written. Contact with a broad range of outside individuals, agencies and organizations in the performance of essential functions are to be expected.

Work is based from the County Administration Center, with frequent travel by County vehicle to monitor applicants' property, and to attend meetings. Hours worked per week average 40, usually during normal hours of operation.

ESSENTIAL FUNCTIONS:

- Coordinates the development of storm water management strategy for the County;
- Integrates programs of Federal, State, and County agencies involved in storm water management activities;
- Participates in review of land use activities and recommends control strategies for protection of water quality (watershed based planning);
- Develops educational programs for civic groups, schools and County residents to encourage the protection of groundwater through the use of best management practices;
- Researches and writes reports related to specific storm water matters of interest to County governments;
- Recommends changes and modifications to existing programs and ordinances that pertain to storm water management.
- Maintains contact with other agencies, elected officials, and the development community to ensure effective delivery of storm water management programs.
- Develop and implement a stormwater facilities inspection and reporting program;
- Respond to citizen inquiries and make presentations to the Board of Supervisors;
- Stay current on developments in relevant areas and pursue innovative techniques for effective improvement;
- Does other related task as required.

MINIMUM REQUIREMENTS:

Knowledge, Skills and Abilities:

Thorough demonstrable knowledge of public relations and effective communication; general knowledge of principles and practices of stormwater management, erosion & sediment control, land use planning, and related areas; ability to establish and maintain effective working relationships with public officials, business community and citizens. Demonstrate the ability to communicate information clearly, both orally and in writing, is essential. Ability to

analyze and interpret complex information and develop detailed reports. Ability to work independently; functional skills with personal computer to include word processing and spreadsheet software, and to establish and maintain effective working relationships with professional colleagues, employees, and representatives of other-public agencies.

Education and Experience:

Any combination of education and experience equivalent to graduation from any accredited four-year college or university with a major in water resources management, environmental science or policy, land use planning, engineering, or hydrology with some experience in water quality management supplemented by a masters degree in one of the fields listed above.

PHYSICAL REQUIREMENTS:

Physical requirements are summarized on the following chart:

Analysis of Physical Effort					
Lift		Stand	O	Reach	C
Up to 20 lbs.	O				
21-50 lbs.	N	Walk	F	Handle	C
Over 50 lbs.	N				
		Sit	C	Finger	F
Carry					
Up to 20 lbs.	O	Crawl	N	Feel	O
21-50 lbs.	N				
Over 50 lbs.	N	Climb	N	Talk	C
Push/Pull		Balance	O	Hear	C
Up to 20 lbs.	N				
21-50 lbs.	N	Bend/Stoop	O	See	C
Over 50 lbs.	N				
		Kneel/Squat	O	Drive Vehicle	F

CONSTANT (C) (at least 2/3's of time)
FREQUENT (F) (1/3 - 2/3's of time)
OCCASIONAL (O) (less than 1/3 of time)
NEVER (N) (does not regularly exist)

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PUBLIC WORKS DIRECTOR’S STAFF REPORT.

The Board received and reviewed Ms. Hoover’s staff report dated May 21, 2004, including information concerning progress on the sewer project for Route 11 North; Lilly Gardens; Countryside water system; Penn Laird Drive and

Water Tower Road sewer; Lakewood/Massanetta Springs pump station, Spotswood High School waterline extension, Wal-Mart water and sewer project, Three Springs back-up power, and the Grottoes Container Site.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated May 21, 2004, including information concerning a Regional Bicycle Plan, Erosion and Sediment Control, the McGaheysville Area Plan, the Subdivision Ordinance Re-Write (Board Public Hearing set for June 9), projects underway, upcoming requests and tabled requests. There was unanimous consent to schedule a work session on the proposed Subdivision Ordinance re-write for June 8, 2004, at 1:30 p.m.

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**RECESS FOR
SPECIAL MEETING OF SMITH CREEK WATER AND WASTE AUTHORITY.**

At 6:28 p.m., Chairman Ahrend declared the meeting recessed for a Special Meeting of the Smith Creek Water and Waste Authority.

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CALL TO ORDER.

At 6:34 p.m., Chairman Ahrend called the regular meeting back to order.

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**RESOLUTION NO. 04-11 - REGARDING
SMITH CREEK WATER & WASTE AUTHORITY**

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following:

RESOLUTION 04-11
OF THE BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA,
REGARDING SMITH CREEK WATER & WASTE AUTHORITY

WHEREAS, pursuant to Chapter 51, Title 15.2 of the Code of Virginia, 1950, as amended (the "Act"), the Smith Creek Water & Waste Authority (the "Authority") was created by the Board of Supervisors of Rockingham County, Virginia (the "County") in order for the Authority, among other reasons, to acquire, purchase, lease as lessee, construct, improve, extend, operate and maintain a stormwater control system or water or waste system or any combination of such systems, and to issue its revenue bonds to finance and refinance all or any part of the cost therefore; and

WHEREAS, the Authority has determined to issue its \$1,333,000 Smith Creek Water & Waste Authority Taxable Waste Water System Revenue Bond, Series 2004 (the "Bond"), to the United States of America, acting through Rural Utilities Service, an agency of the United States Department of Agriculture ("RUS"), in order to provide long-term financing for the Authority's costs to acquire, construct and equip its waste system to provide sewer collection service to the Route 11 North area, including facilities and other improvements relating thereto (the "Project"); and

WHEREAS, RUS has required the County to approve an agreement providing for a non-binding obligation of the County to consider certain appropriations in support of the Bond.

NOW, THEREFORE, BE IT RESOLVED, by the Board of Supervisors of Rockingham County Virginia, as follows:

1. The Board of Supervisors, acting on behalf of the County (the "Board"), hereby approves the terms and conditions set forth in the letter to the Authority from RUS, dated March 26, 2004, attached hereto as **Exhibit A** (the "Letter of Conditions").
2. The Board hereby approves the execution and delivery of a Support Agreement, as required by RUS under the Letter of Conditions, in connection with the Authority's issuance of the Bond. The Chairman or Vice-Chairman of the Board, or the County Administrator, any one or more of whom may act, are hereby authorized and directed to execute and deliver the Support Agreement substantially in the form attached hereto as **Exhibit B**, which form is hereby approved.
3. It is to be understood that nothing herein contained is or shall be deemed to be a pledge of the faith and credit or the taxing power of the County in connection with the Bond or the Project, and nothing herein or contemplated under such transactions shall legally bind or obligate the Board or any future Board of the County to appropriate funds for such purposes. The Board's obligations to make payments pursuant to the Support Agreement, under all circumstances, shall be subject to and dependent upon appropriations being made, from time to time, by the Board for such purposes.
4. The Chairman and Vice Chairman of the Board, and the County Administrator, any one or more of whom may act, and such officers, employees, and agents of the County as any of them may designate, are each authorized and directed to execute and deliver any and all instruments, certificates and other documents required to carry out the purposes of this Resolution, all as may be advised by counsel.
5. This Resolution shall be effective immediately upon its adoption.

Date: May 26, 2004

ROCKINGHAM COUNTY, VIRGINIA

By: _____
Chairman, Board of Supervisors

CERTIFICATE

The undersigned Clerk of the Board of Supervisors of Rockingham County, Virginia, hereby certifies that the foregoing constitutes a true and correct copy of the foregoing resolution adopted by the Board of Supervisors at a regular meeting duly held and called on May 26, 2004. A record of the roll-call vote by the Board of Supervisors is as follows:

	AYE	NAY	ABSTAIN	ABSENT
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Charles W. Ahrend, Chairman	X			
William B. Kyger, Jr.	X			
Michael A. Breeden	X			
Dee E. Floyd	X			
Pablo Cuevas	X			

Dated: May 26, 2004

[SEAL]

Clerk, Board of Supervisors
Rockingham County, Virginia

**SUPPORT AGREEMENT
SMITH CREEK WATER & WASTE AUTHORITY**

THIS SUPPORT AGREEMENT is made as of _____, 2004, between the **BOARD OF SUPERVISORS OF ROCKINGHAM COUNTY, VIRGINIA** (the “Board”), acting as the governing body of Rockingham County, Virginia (the “County”), **SMITH CREEK WATER & WASTE AUTHORITY** (the “Authority”), and the **UNITED STATES OF AMERICA, ACTING THROUGH RURAL UTILITIES SERVICES, AN AGENCY OF THE UNITED STATES DEPARTMENT OF AGRICULTURE** (“RUS”), as purchaser of the Bond, as hereinafter defined, pursuant to the Letter of Conditions, dated April 26, 2004 from RUS to the Authority (“Letter of Conditions”).

RECITALS

WHEREAS, the Authority was created by the Board pursuant to the Virginia Water and Waste Authorities Act (Chapter 51, Title 15.2, Code of Virginia, as amended) and owns and operates a water and waste system (the “System”) in the County; and

WHEREAS, the Authority has determined that it is in the best interest to issue and sell its \$1,333,000 Taxable Waste Water System Revenue Bond, Series 2004, to RUS (the “Bond”) pursuant to the terms of the Letter of Conditions to finance the Project; and

WHEREAS, the Board adopted on May 26, 2004, a resolution authorizing, among other things, the execution of an agreement providing for a non-binding obligation of the Board to consider certain appropriations in support of the Bond and the Project.

AGREEMENT

NOW, THEREFORE, for and in consideration of the foregoing and of the mutual covenants herein set forth, the parties hereto agree as follows:

1. Unless otherwise defined, each capitalized term used in this Support Agreement shall have the meaning given it in the Letter of Conditions
2. The Authority shall use its best efforts to issue the Bond and to use the proceeds thereof to pay the costs of the Project.
3. No later than May 15 of each year, beginning May 15, 2005, the Authority shall notify the Board of the amount (the “Annual Deficiency Amount”), if any, by which the Authority reasonably expects the Revenues of the System to be insufficient to pay (i) the debt service obligations under the Bond,

and (ii) the operation and maintenance expenses for the System, in full, as when due during the County’s fiscal year beginning the following July 1.

4. The County Administrator of the County (the “County Administrator”) shall include the Annual Deficiency Amount in his/her budget submitted to the Board for the following fiscal year as an amount to be appropriated to or on behalf of the Authority. The County Administrator shall deliver to RUS within ten days after the adoption of the County’s budget for each fiscal year, but no later than July 15 of each year, a certificate stating whether the Board has appropriated to or on behalf of the Authority an amount equal to the Annual Deficiency Amount.

5. If at any time the Revenues of the System shall be insufficient to make any of the payments referred to in paragraph 3 hereof, the Authority shall notify the County Administrator of the amount of such insufficiency and the County Administrator shall request a supplemental appropriation from the Board in the amount necessary to make such payment.

6. The County Administrator shall present each request for appropriation pursuant to paragraph 5 above to the Board, and the Board shall consider such request, at the Board’s next regularly scheduled meeting at which it is possible to satisfy any applicable notification requirement. Promptly after such meeting, the County Administrator shall notify RUS as to whether the amount so requested was appropriated. If the Board shall fail to make sure appropriation, the County Administrator shall add the amount of such requested appropriation to the Annual Deficiency Amount reported to the County by the County Administrator for the County’s next fiscal year.

7. The Board hereby undertakes a non-binding obligation to appropriate such amounts as may be requested from time to time pursuant to paragraphs 4 and 5 above, to the fullest degree and in such manner as is consistent with the Constitution and laws of the Commonwealth of Virginia. The Board, while recognizing that it is not empowered to make any binding commitment to make such appropriations in future fiscal years, hereby states its intent to make such appropriations in future fiscal years, and hereby states its intent to make such appropriations in future fiscal years, and hereby recommends that future Boards of Supervisors do likewise.

8. Nothing herein contained is or shall be deemed to be a lending of the credit of the County to the Authority, RUS or to any holder of the Bond or to any other person, and nothing herein contained is or shall be deemed to be a pledge of the faith and credit for the taxing power of the County, nor shall anything herein contained legally bind or obligate the Board to appropriate funds for the purposes described herein.

9. Any notices or requests required to be given hereunder shall be deemed given if sent by registered or certified mail, postage prepaid, addressed (i) if to the County, to Rockingham County Administration Center, 20 East Gay Street, Harrisonburg, Virginia 22801, Attention: County Administrator; (ii) if to the Authority to Rockingham County Administration Center, 20 East Gay Street, Harrisonburg, Virginia 22801, Attention: Executive Director; and (iii) if to RUS, to 1934 Deyerle Avenue, Suite D, Harrisonburg, Virginia 22801, Attention: James Allen. Any party may designate any other address for notices or requests by giving notice.

10. It is the intent of the parties hereto that this Agreement shall be governed by the laws of the Commonwealth of Virginia.

11. This Agreement shall remain in full force and effect until the Bond and all other amounts payable by the Authority under the Authorizing Resolution, if any, have been paid in full.

IN WITNESS WHEREOF, the parties hereto have each caused this Agreement to be executed in their respective names as of the date first above written.

**BOARD OF SUPERVISORS OF ROCKINGHAM
COUNTY, VIRGINIA**

By: _____
Chairman

SMITH CREEK WATER & WASTE AUTHORITY

By: _____
Chairman

**UNITED STATES OF AMERICA, ACTING THROUGH
RURAL UTILITIES SERVICES, AN AGENCY OF THE
UNITED STATES DEPARTMENT OF AGRICULTURE**

By: _____

Its: _____

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TURNER ASHBY HIGH SCHOOL STUDENTS WELCOMED.

The Board welcomed to the meeting students from Turner Ashby High School government class.

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COMMITTEE REPORTS.

The Board heard Committee reports from Board members and staff.

On motion by Supervisor Breeden, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Building and Grounds Committee, the Board authorized staff to move forward with the planned remodeling of the building housing the Convention and Visitors Bureau at 10 East Gay Street and to move the funds, \$5,991, from the upcoming FY2004-05 Budget to the current FY2003-04 Budget

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board took the following actions.

- As requested by the Fire & Rescue Chief in regard to the grant funding awarded to Rockingham County for the Rural Access to Emergency Devices Grant Program, approved a supplemental appropriation in the amount of \$6,475 for 5 defibrillators. These funds are provided by the State, and will require no local match.

Supplemental Appropriation: \$6,475	GL Code: 001-03201-000-6065-000 (Minor Equipment)
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- As the State Department of Emergency Management, Technological Hazards Division, has verified the transfer of funds to the County for a Level III HAZMAT response in Shenandoah County for a chloride leak at the Edinburg water treatment plant, as requested by the Fire and Rescue Chief, approved a supplemental appropriation in the amount of \$1,497 for the overtime cost incurred for this response. These funds are State funded and will require no local match.

Supplemental Appropriation: \$1,497 GL Code: 001-03201-000-1200-000
(Overtime)

- As requested by the Sheriff, approved a supplemental appropriation in the amount of \$16,725 for salary and benefits for the RUSH Meth Analyst and miscellaneous expenditures. These funds are State funded and will require no local match.

Supplemental Appropriation:

\$7,500	GL Code: 001-03103-100-1100-000 (Full-time salary)
\$ 150	GL Code: 001-03103-100-2100-000 (FICA)
\$1,375	GL Code: 001-03103-100-2201-000 (VRS)
\$3,900	GL Code: 001-03103-100-5504-000 (Professional Development)
\$3,800	GL Code: 001-03103-100-6014-000 (Other Operating Supplies)

- As requested by the Sheriff, approved a transfer of funds in the amount of \$1,600 for salaries related to the RUSH Meth Analyst expenditures.

Transfer:

\$1,600	from	GL Code: 001-03103-100-2300-000 (Health Insurance)
\$1,600	to	GL Code: 001-03103-100-1100-000 (Full-time salary)

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CLOSED MEETING.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 6:45 to 7:00 p.m. to discuss consideration of the disposition of real property, prospective business or industry and legal matters pertaining to actual litigation as set forth by Virginia Code Section 2.2-3771(A)(3), (5) and (7).

At 7:00 p.m., Chairman Ahrend called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR FLOYD RESOLUTION NO: X04-06
SECOND: SUPERVISOR KYGER MEETING DATE: MAY 26, 2004

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:

AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER

NAYS: NONE

ABSENT: NONE

Dottie L. Bowen, Deputy Clerk

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PUBLIC HEARING - SPECIAL USE PERMITS.

At 7:00 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the following special use permit applications.

S04-18, request of Carol Lantz Miller, 15369 Spar Mine Road, Timberville, for a permit for mini-storage in existing agricultural building with addition on property located on the south side of Helbert Lane (private road) approximately 50' west of Spar Mine Road (Route 617) in Plains Magisterial District, Election District #1, zoned A-2. Tax Map #39-(A)-92.

The applicant was present to answer questions.

Kenneth Spitzer, adjoining landowner, said he was opposed to the application.

S04-19, request of Thomas G. & Gloria J. Metroka, 11061 Port Republic Road, Port Republic, for a permit for an antique shop on property located on the

northeast side of Port Republic Road (Route 659) approximately 7/10 mile northwest of East Side Highway (Route 340) in Stonewall Magisterial District, Election District #3, zoned RS-1. Tax Map #160-(A)-128A1.

The applicant was present to answer questions.

Barbara Posen asked why the applicants wanted to put a commercial operation in a residential area.

Ms. Stultz explained that a small business is allowed by special use permit in the RS-1 zone.

S04-20, request of Troy D. Farrish, 9817 Lee Highway, Weyers Cave, for a permit for a gunsmithing shop located in basement of existing dwelling on property located on the east side of Lee Highway (Route 11) approximately 1200 feet south of Captain Shands Road (Route 690) in Ashby Magisterial District, Election District #3, zoned A-2. Tax Map #148-(A)-19.

The applicant was present to answer questions.
No opposition was expressed.

S04-21, request of Michael and Lisa Arbogast, 1880 Irish Path, Harrisonburg, for a permit for an auto repair shop on property located on the east side of Irish Path (Route 720) approximately 600 feet north of Gravels Road (Route 765) in Linville Magisterial District, Election District #2, zoned A-2. Tax Map #79-(A)-3F.

Lisa Arbogast was present to answer questions.
No opposition was expressed.

Chairman Ahrend asked if the plan would remain the same as it was for the previous special use permit.

Ms. Arbogast said occasionally a vehicle might be dropped off, but that would not happen very often.

S04-23, request of Roger W. Blosser, 784 Clover Hill Road, Dayton, for a permit for a residence involving a division of land to a non-family member on property located on the southeast side of Fox Den Road (Route 741) and Robinson Road (Route 742) in Ashby

Magisterial District, Election District #2, zoned A-1.
Tax Map #90-(A)-87.

Chairman Ahrend asked if the person who will reside in the residence was an assistant on the farm.
Mr. Blosser responded in the affirmative.

No opposition was expressed.

S04-24, request of Indian Trail Farm, LLC, 283 Indian Trail, Penn Laird, for a permit for a farmer's market (as accessory use to an existing farming operation) and a flea market on property located on the west side of Indian Trail Road (Route 620) approximately 1/2 mile north of Spotswood Trail (Route 33) in Central Magisterial District, Election District #3, zoned A-1. Tax Map #126-(2)-A.

The applicants were present to answer questions.

S04-25, request of Brent A. Shifflett, 3822 Berrytown Road, Elkton, for a residence involving a division of land on property located on the west side of Berrytown Road (Route 754) approximately 200 feet north of Little Gap Road (Route 630) in Stonewall Magisterial District, Election District #5, zoned A-1. Tax Map #144-(A)-4.

Supervisor Breeden advised that Mr. Shifflett was with the Elkton Rescue Squad and also getting married in a few days. He noted that Mr. Shifflett's sister would live in the house and Mr. Shifflett would move to the house next to it.

Chairman Ahrend closed the public hearing and called the regular session back to order at 7:16 p.m.

Noting that the applicant should understand the regulations governing mini-storage facilities and that any expansion or addition would have to come back to the Board, Supervisor Cuevas moved to approve S04-18, request of Carol Lantz Miller for a permit for mini-storage in an existing agricultural building with addition on the property. Supervisor Breeden seconded the motion.

Supervisor Kyger advised that the applicant was a relative, that he would have no conflict of interest in the matter and that he would be able to vote on the motion with a clear conscience.

The motion carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; approving, with the following conditions, S04-18, request of Carol Lantz Miller, 15369 Spar Mine Road, Timberville, for a permit for mini-storage in existing agricultural building with addition on property located on the south side of Helbert Lane (private road) approximately 50' west of Spar Mine Road (Route 617) in Plains Magisterial District, Election District #1, zoned A-2. Tax Map #39-(A)-92.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained. A change of use permit shall be required for the portion of the building that already exists and a new building permit for the addition.
- (3) An entrance permit shall be obtained from VDOT's Residency Office and shall be submitted to the Department of Community Development prior to obtaining final zoning approval for building permits.
- (4) Entrance shall be a 30' commercial entrance and shall be paved for a length of at least 25 feet in accordance with VDOT requirements.
- (5) Applicant shall not use the property for the commercial storage of explosives, fuels or other flammable materials, or goods or products that contain, emit, produce, or generate toxic or hazardous substances in such quantities or in such manner which would require reporting under The Emergency Planning and Community Right to Know Act, 42 USC §11001 et seq. or The Comprehensive Environmental Response, Compensation and Liability Act, 42 USC §9601 et seq.
- (6) All storage shall be within the building. There shall be no outside storage allowed under this permit.
- (7) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (8) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (9) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (10) Off-street parking shall comply with the Rockingham County Code.

- (11) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Supervisor Floyd noted that, although he was unable to visit the Metroka site, Supervisor Breeden had advised that the proposed use would be a good thing for the location. On motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved 04-19, request of Thomas G. & Gloria J. Metroka, 11061 Port Republic Road, Port Republic, for a permit for an antique shop on property located on the northeast side of Port Republic Road (Route 659) approximately 7/10 mile northwest of East Side Highway (Route 340) in Stonewall Magisterial District, Election District #3, zoned RS-1.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) A change of use building permit shall be required to convert the building from a private use to a commercial use.
- (3) There shall be no signs placed on the State right-of-way.
- (4) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (5) In accordance with Health Department requirements, only the two people living in the dwelling on the property shall work in the antique shop.
- (6) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (7) Off-street parking shall comply with the Rockingham County Code, and there shall be no parking permitted on State right-of-way.
- (8) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (9) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (10) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued all other conditions of this permit are met.

Supervisor Floyd noted that, although he was unable to visit the Farrish site, he was not aware of any opposition to the request. On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-20, request of Troy D. Farrish, 9817 Lee Highway, Weyers Cave, for a permit for a gunsmithing shop located in basement of existing dwelling on property located on the east side of Lee Highway (Route 11) approximately 1200 feet south of Captain Shands Road (Route 690) in Ashby Magisterial District, Election District #3, zoned A-2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) The portion of the basement being used for this business shall obtain permits to convert to a commercial use and all Statewide Building Code requirements shall be met.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) Owner of the residence shall be the only employee in this business.
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (6) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (7) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (8) Off-street parking shall comply with the Rockingham County Code.
- (9) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that the Board had approved the same Arbogast special use permit in the past, Chairman Ahrend asked for a motion for approval. On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE;

CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-21, request of Michael and Lisa Arbogast, 1880 Irish Path, Harrisonburg, for a permit for an auto repair shop on property located on the east side of Irish Path (Route 720) approximately 600 feet north of Gravels Road (Route 765) in Linville Magisterial District, Election District #2, zoned A-2.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained to convert building to a commercial garage.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) Owner of the property shall be the only employee in the garage.
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property such time as site plan is approved.
- (6) There shall be no inoperable vehicles allowed to accumulate on the property. Additionally, there shall be no accumulation of junked automobile parts or other junk, trash or debris allowed to accumulate on the property.
- (7) There shall be no more than five (5) vehicles associated with the business allowed on the property at any time. This pertains only to vehicles sitting outside the garage and shall not include any vehicles in the garage.
- (8) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that the Blosser residence would be used by a part-time hired man to work on the farm, Chairman Ahrend asked for a motion for approval. On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-23, request of Roger W. Blosser, 784 Clover Hill Road, Dayton, for a permit for a residence involving a division of land to a non-family member on property located on the southeast side of Fox Den Road (Route 741) and Robinson Road (Route 742) in Ashby Magisterial District, Election District #2, zoned A-1.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors. and shall not include any vehicles in the garage.
- (2) Any residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) A Private Entrance Permit shall be obtained from VDOT and submitted to the Community Development Department prior to deed exception approval.
- (4) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one-year completion date.
- (5) If residence is a manufactured home, it shall be skirted and the tongue removed, unless included in the skirting, within sixty (60) days from final inspection.
- (6) This residence shall not be used for rental purposes.
- (7) Any residence placed on this property shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Supervisor Floyd said he was well aware of the Indian Trail Farm area and he was aware of how the applicants wished to use the site. He said he believed that it would fit in well with the farming operation.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-24, request of Indian Trail Farm, LLC, 283 Indian Trail, Penn Laird, for a permit for a farmer's market (as accessory use to an existing farming operation) and a flea market on property located on the west side of Indian Trail Road (Route 620) approximately 1/2 mile north of Spotswood Trail (Route 33) in Central Magisterial District, Election District #3, zoned A-1. Tax Map #126-(2)-A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Building(s) shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained. A change of use permit shall be required for any existing building.
- (3) In accordance with VDOT comments, entrance shall be located on Indian Trail Road .40 mile north of

Spotswood Trail. Entrance shall meet private subdivision standards.

- (4) A permit shall be obtained from VDOT for the entrance and shall be submitted to the Community Development Department prior to obtaining building permits.
- (5) This permit is contingent upon the applicant obtaining some type of sewerage disposal system, and a copy of said permit shall be submitted to the Community Development Department prior to obtaining building permits.
- (6) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (7) The deed for this property, with the correct adjacent landowner language, shall be submitted to the Community Development Department for approval; and upon receiving approval shall be re-recorded in the Clerk's Office prior to obtaining final site plan approval.
- (8) The flea market shall be open only on weekends.
- (9) In accordance with the Rockingham County Code, the farmer's market shall be limited to produce raised on the subject property or property within two miles of the subject property.
- (10) Total signage on the property shall comply with the Rockingham County Code and permits shall be obtained for any sign.
- (11) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (12) Off-street parking shall comply with the Rockingham County Code.
- (13) In accordance with the Rockingham County Code no more than 2 acres of land and not more than 5,000 square feet of floor space in the building shall be used for the farmer's market.
- (14) All laws pertaining to special uses as accessory uses to a farming operation shall be met.
- (15) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-25, request of Brent A. Shifflett, 3822 Berrytown Road, Elkton, for a residence

involving a division of land on property located on the west side of Berrytown Road (Route 754) approximately 200 feet north of Little Gap Road (Route 630) in Stonewall Magisterial District, Election District #5, zoned A-1. Tax Map #144-(A)-4.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) An entrance permit shall be obtained from VDOT's Harrisonburg Residency and shall be submitted to the Community Development Department prior to deed exception approval.
- (4) This residence shall not be used for rental purposes.
- (5) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one-year completion date.
- (6) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

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PUBLIC HEARING - REZONING REQUESTS.

At 7:55 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on the following rezoning applications.

R04-5, request of Kenneth M. Klamut, c/o Ray Nicely, 3231 Peoples Drive, Harrisonburg, to rezone 10.93 acres from A1 (Prime Agricultural) to CA2 (General Agricultural with Conditions), on tax parcel 123 (A) 68A, and located south of Oakwood Drive (Route 704) approximately 200 feet west of Foxcroft Drive (Route 1061) in Election District #4. The Comprehensive Plan designates this area as Employment Area. A2 allows 2.1 dwelling units per acre; the applicant has proffered to limit the total number of units to 4.

The Planning Commission recommended approval of this request to rezone, from A1 to C-A2, on a 4-0 vote

Ray Nicely, Director of Planning, Valley Engineering, represented the applicant. He pointed out that the application was amended from an application for an R3 subdivision with townhouses and up to 25 dwellings, which he described as "overly ambitious in view of the adjoining neighborhood development." He noted that the A2 conditional request was tailored to make the

property compatible with the adjoining property. He said he thought 4 single-family dwellings would be a good use of the land and appropriate for the area.

Supervisor Kyger asked where the "100 ducks" mentioned in the proffers would be located.

Dr. Klamut explained that the ducks were wild, and there may be as many as 250 geese on the pond at one time. He said he presumed that 10 ducks per unit would allow as many as 400 to fly in at one time. He noted that there would be about 25 domestic ducks and 2 swans.

Supervisor Cuevas asked about the phrase, "variety of housing types, including elderly care."

Mr. Nicely advised that language was in the original application, intended to include the possibility of expanding Oakwood Villas. He noted that, with the new proffers, that phrase would not apply as there would be only 4 single-family dwellings on the site.

Thad Goodrich said he believed the new proposal was reasonable, but the residents were "trying to make the neighborhood compatible from one to the next." He asked about "all the domestic animals" being permitted in the proffers.

Supervisor Kyger explained that farm animals are permitted by right on the site and, by proffering certain ones, the applicant would be limiting himself to only those animals.

Ms. Henderson said the standard for compatibility would be Foxcroft Subdivision.

Harry Kellam expressed concern about traffic and a single-lane bridge carrying a large number of vehicles.

Supervisor Kyger noted that the bridge is scheduled for replacement.

Boyd Dove asked if a buffer zone could be provided at the location of the right-of-way.

Supervisor Kyger pointed out that the driveway was pre-existent, a kind of "buyer beware" item that was at the site before the present houses were built.

R04-6, request of David Madison, 133 Parkins Lane, Winchester, to rezone 64.66 acres from A2 (General Agriculture) to CR3 (General Residential with Conditions), on tax parcel 126 (A) 19A, and located south of Spotswood Trail (Route 33) approximately 1650

feet northwest of Cross Keys Road (Route 276) in Election District #3. The Comprehensive plan designates this area as Non-Intensive Agriculture. R3 allows 4.3 dwelling units per acre; the applicant has proffered to limit the total number of units to 150 single family detached units (or approximately 2.3 units per acre).

Jim Shaw, Senior Planner, Valley Engineering, represented the applicant. He read a statement describing the planned development, pointing out that the applicant is a builder of "quality homes." He stated that the plan was for not more than 150 single-family lots with open space provided and preservation of natural features such as the wooded lot and creek.

In response to a question from Dylan Taylor, Mr. Shaw noted that there would be two entrances lined up with the crossovers.

Michelle Christopher said she was in favor of the proposal, and she had been assured that the streetlights would be ten feet high with the light going straight down and a bulb that would not be too bright.

Phil Groschlose said he had ended up with development on all sides since he purchased his property in 1979. He said he believed the proffers were reasonable.

Steven Hess asked about the size of the lots going across the back of the property. Mr. Shaw said the typical lot would be 12,000 to 14,000 sq. ft., roughly 1/3 of an acre.

David Briggman said some of the Board did not think a new road was needed, but he thought approval of this subdivision would mandate it. He expressed concern about the additional students being put in eastern Rockingham County schools. He thought another high school would have to be built.

Supervisor Kyger pointed out that the Turner Ashby student population has leveled off and is declining. He said he could imagine several scenarios would be examined before another high school would be built.

RZ04-7, request of Mark and Julie Smith, 2702 Spotswood Trail, Harrisonburg, to rezone 1.02 acres from A2 (General Agricultural) to C-B1 (General Business with Conditions) on tax parcel 109 (3) 4B and located on the south side of Spotswood Trail (Route 33), approximately 1/8 mile west of Boyers Road (Route 704) in Election District #3. The Comprehensive Plan designates this area as Non-Intensive Agriculture. This is the site of the Massanutten Animal Clinic.

The Board received a report from the Planning Commission, recommending approval of this request, noting "While the Comprehensive Plan designates this site as Non-Intensive Agriculture, the site has been continuously used for commercial purposes for over 30 years. Rezoning this property to Conditional B1 is an appropriate infill that is compatible with the adjoining business zoning and is not expected to negatively impact the surrounding area."

There were no speakers on this proposal.

Chairman Ahrend closed the public hearing and called the regular session back to order at 8:25 p.m.

On motion by Supervisor Kyger, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; conditioned on the following proffers, the Board approved R04-5, request of Kenneth M. Klamut, c/o Ray Nicely, 3231 Peoples Drive, Harrisonburg, to rezone 10.93 acres from A1 (Prime Agricultural) to CA2 (General Agricultural with Conditions), on tax parcel 123 (A) 68A, and located south of Oakwood Drive (Route 704) approximately 200 feet west of Foxcroft Drive (Route 1061) in Election District #4.

1. Permitted uses of the property shall be limited to:
 - Single-family dwellings
 - Domestic animals, limited to beef or slaughter cattle, dairy cows, calves, buffalo, llamas, horses, mules, sheep, goats, and ostriches, limited to one animal unit per acre, not to exceed four animal units, total, per parcel. A maximum of 100 ducks would be allowed.
 - Park, lake, pedestrian trail, walkway, bikeway, playground, bridle path
 - Public utilities
 - Sign, as provided for in Article VII
 - Telephone exchange cabinet
 - Accessory buildings, as provided for in Article III
2. Development of the property shall be limited to no more than four dwelling units, including the existing dwelling.
3. The land lying between the existing center line of Route 704, Oakwood Drive, and a line on the south side of Route 704, consistent with the existing right-of-way lines of Lot 16, Section One, Foxcroft Estates (to the east) and Lot 1A, Section Three, Ultimate Park (to the west) is hereby reserved for dedication as fee simple right-of-way for Route 704, at the time of Route 704 VDOT improvements.
4. All buildings shall be limited to no more than two stories in height.

5. Development of the property shall be aesthetically and architecturally compatible with the surrounding neighborhood.

Supervisor Floyd said he had some concerns about the Madison proposal, and the County had not approved a subdivision of that size for 10 years. He indicated that he would prefer to table the request and schedule a site visit for the Board. On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled R04-6, request of David Madison, 133 Parkins Lane, Winchester, to rezone 64.66 acres from A2 (General Agriculture) to CR3 (General Residential with Conditions), on tax parcel 126 (A) 19A, and located south of Spotswood Trail (Route 33) approximately 1650 feet northwest of Cross Keys Road (Route 276) in Election District #3.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; conditioned on the following proffers, the Board approved RZ04-7, request of Mark and Julie Smith, 2702 Spotswood Trail, Harrisonburg, to rezone 1.02 acres from A2 (General Agricultural) to C-B1 (General Business with Conditions) on tax parcel 109 (3) 4B and located on the south side of Spotswood Trail (Route 33), approximately 1/8 mile west of Boyers Road (Route 704) in Election District #3.

The property shall not be used for any of the following uses:

1. Slaughterhouse or livestock sales.
2. Animal shelter
3. Assembly of phonographs
4. Automobile assembling, tire retreading or recapping or battery manufacture
5. Blacksmith shop.
6. Brewery or associated activities
7. Truck terminal or truck stop
8. Pawn or swap shop
9. Bus station
10. School or church

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**PUBLIC HEARING - AMENDMENT TO CHAPTER 17, ARTICLE VI,
DIVISIONS 13 AND 14, TO ALLOW OUTSIDE DISPLAY OF CERTAIN
MERCHANDISE BY SPECIAL USE PERMIT IN B1 AND B2 ZONES.**

At 8:39 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on OA04-5, Chapter 17, Article VI, Division 13; 17-90 (b) (3); 17-92 (y), (z), (aa); Article VI; Division 14, 17-97; 1707 (m), (n), (o); to allow by special use permit, the outside display of lawn ornaments and merchandise by antique and craft shops in the B1 (General Business) and B2 (Rural Business) Districts, and Article VII; Division 1, 17-116.1, to add provisions regulating the outside display of merchandise, when permitted.

Ms. Stultz reviewed the proposal. There were no requests to speak on this item.

Chairman Ahrend closed the public hearing and called the regular session back to order at 8:42 p.m.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following amendment. (The Planning Commission did not have a recommendation, as a vote for denial ended in a tie vote.)

0A04-5
CHAPTER 17 OF THE ROCKINGHAM COUNTY CODE

Article VI. Uses in Districts
Division 13. General Business District B-1

Sec. 17-90. Purpose and intent

(b)(3) All activities within this district shall be conducted within a completely enclosed building unless excepted from enclosure, or where outside display is allowed with special use permit approval, or where the nature of the activity makes it impossible to be conducted in a completely enclosed building. Outside display shall be in accordance with Section 17-116.1.

Sec. 17-92. Special uses.

- (y) Antique shop, with outside display;
- (z) Craft shop, with outside display;
- (aa) Sale of lawn ornaments with outside display.

Division 14. Rural Business Service District B-2

Sec. 17-95. Purpose and intent.

This district is designed to accommodate rural neighborhood convenience service and retail uses in an orderly nodal development pattern in accordance with the related policy objectives of the comprehensive land use plan. This district is intended to be correlated with the Rural Service District RS-1 in that provision is made for the establishment of rural business uses necessary to meet the community needs of rural service centers and their surrounding areas. It is further intended that the standards of this district will constitute harmonious and appropriate development considerate of surrounding uses, contribute to the economic base and otherwise carry out the purpose of this district. All business uses shall be conducted within a completely enclosed building unless excepted from enclosure or where outside display is allowed with special use permit approval, or where the nature of the activity makes it impossible to be conducted within a completely enclosed building. Outside display shall be in accordance with Section 17-116.1.

Sec. 17-97. Special uses.

- (m) Antique shop, with outside display;
- (n) Craft shop, with outside display;
- (o) Sale of lawn ornaments with outside display.

Article VII. Use Regulations
Division 1. Area.

Section 17-116.1. Outside display.

- (a) In all zoning districts where the outside display of merchandise for sale is allowed by a special use permit, such display shall be allowed only as an accessory use to the main use on the same lot or parcel of land.
- (b) In all zoning districts where the outside display of merchandise for sale is allowed by a special use permit, such display of merchandise for sale that is incidental to a retail use, plant nursery, sales and rental of motor vehicles, manufactured homes, boats or trailers, or the outside display of automobile-related merchandise for sale that is incidental to a gasoline filling station shall not be required to be screened.
- (c) In all zoning districts where the outside display of merchandise for sale is allowed by a special use permit, such display shall conform to the following requirements:
 - (1) Where outside display is located adjacent to a building, an unoccupied area of not less than five (5) feet in width shall be provided for pedestrian access between any outside display and any adjacent parking lot;
 - (2) Display area shall be a minimum of ten (10') feet from all property lines and if adjacent to a state maintained road shall meet requirements of VDOT with regard to setback from the road.
 - (3) In no instance shall outside display of merchandise be located within, nor encroach upon, a fire lane, maneuvering aisle, or a parking space necessary to meet the minimum parking requirements;
 - (4) Outside displays shall be situated so as not to obstruct visibility within a parking lot. Where an outside display is located at the intersection of two (2) or more maneuvering aisles within a parking lot, the displayed merchandise shall not exceed 30 inches in height above the grade level of the parking lot.
 - (5) Outside displays shall not be located at the intersection of a maneuvering aisle and any public street.
 - (6) The area devoted to outside display shall not exceed fifty (50%) percent of the total floor area of the building occupied by the use to which such outside display is accessory.

Signage for the display area shall comply with Article VII, Division 5 of this ordinance.

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INFORMATION ITEMS.

The Board received the following Information Items from the County Administrator:

- a. Letter dated May 13, 2004, from Friendship Industries, Inc., expressing appreciation for the County's support.
- b. Letter dated May 11, 2004, from Page County regarding its Resolution supporting the poultry industry.
- c. Letter dated May 13, 2004, from Shenandoah Valley Partnership, expressing appreciation for the County's support and transmitting the SVP Annual Report for 2003.

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ADJOURNMENT.

By consensus, the Board adjourned the meeting at 8:46 p.m.

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Chairman